

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NICOLI ANTONIO SANTANA,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 20-CV-1226
	:	
BERKS COUNTY JAIL SYSTEM, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 1st day of July, 2020, upon consideration of Nicoli Antonio Santana's Motion to Proceed *In Forma Pauperis* (ECF No. 3), Prisoner Trust Fund Account Statement (ECF No. 4), and *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Nicoli Antonio Santana, #NS-8665, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Forest or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Santana's inmate account; or (b) the average monthly balance in Santana's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Santana's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Santana's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court shall **SEND** a copy of this Order to the Superintendent of SCI Forest.

4. The Complaint is **DEEMED** filed.

5. For the reasons discussed in the Court's Memorandum, the following claims are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii): (1) claims against the Berks County Jail System; (2) claims based on grievances; (3) claims based on the Eighth and Fourteenth Amendments; and (4) claims based on denial of access to the courts.

6. The Clerk of Court is **DIRECTED** to terminate Berks County Jail System.

7. Santana's claims against all Defendants in their official capacities are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons discussed in the Court's Memorandum.

8. Santana is given thirty (30) days to file an amended complaint in the event he can allege additional facts to state a plausible claim against the Defendants in their official capacities, *i.e.* for municipal liability. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Santana's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 20-1226. If Santana files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Santana's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this case. When drafting his amended complaint, Santana should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

9. If Santana does not file an amended complaint, the Court will direct service of his remaining claims, *i.e.*, his Fourth Amendment claims against District Attorney Brown and Correctional Officers Dew and Amneyhower. Santana may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Santana is reminded to include the case number for this case, 20-1226.

BY THE COURT:

/s/ Jeffrey L. Schmehl

JEFFREY L. SCHMEHL, J.